



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Alexis T. Rand, Commissioner of Patents and Trademarks
Washington, D.C. 20591-0001
www.uspto.gov

NL

APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09/941,853	08/29/2001	Robert L. Canella	4322US (MUEI-0542,00 US)	7507
24247	7590	08/27/2002		
TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110			EXAMINER [REDACTED]	GREENE, PERSHELLE L.
			ART UNIT [REDACTED]	PAPER NUMBER 2826
			DATE MAILED: 08/21/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/941,853	CANELLA, ROBERT L.
Persheille Greene	2826

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 August 2001
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8, 10-12, 14-22, 24-26 and 44-55 is/are pending in the application.
- 4a) Of the above claim(s) 9, 13, 23, 27-43 and 56-65 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-8, 10-12, 14-22, 24-26, and 44-55 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f)
- a) All b) Some * c) None of
- 1 Certified copies of the priority documents have been received
- 2 Certified copies of the priority documents have been received in Application No. _____
- 3 Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))
- * See the attached detailed Office action for a list of the certified copies not received
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)
- a) The translation of the foreign language provisional application has been received
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited PTO-892 | 4) <input type="checkbox"/> Interview Summary PTO-413, Paper No. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review PTO-948 | 5) <input type="checkbox"/> Notice of Informal Patent Application PTO-152 |
| 3) <input type="checkbox"/> Information Disclosure Statement PTO-1449, Paper No. _____ | 6) <input type="checkbox"/> Other _____ |

Application Control Number: 09 941,853
Art Unit: 2826

Page 2

Serial Number: 09 941853
Attorney's Docket #: 4322US (MUEL-0542.00 US)

Filing Date: 08 29 2001

Applicant: Canella, Robert L.
Examiner: Pershelle Greene

DETAILED ACTION

The previous restriction requirement dated May 3, 2002 is withdrawn. The new species restriction requirement is detailed below.

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I: Figures 4, 5, and 6;

Species II: Figure 7;

Species III: Figures 4, 5, and 8;

Species IV: Figures 4, 5, and 9;

Species V: Figures 10 and 11;

Species VI: Figures 12 and 13; and

Species VII: Figures 14 and 15

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 3 and 44-49 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pershelle Greene whose telephone number is 703-305-3870. The examiner can normally be reached on M-F 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 703-308-6601. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

PLG
July 23, 2002

NATHAN J. FLYNN
ADVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800